

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

JUAN B. RODRIGUEZ

PLAINTIFF

v.

Case No. 5:17-cv-05029

E. BRADLEY, Warden

DEFENDANT

OPINION AND ORDER

— Currently before the Court is the Report and Recommendation (“R&R”) (Doc. 5) of the Honorable James R. Marschewski, United States Magistrate Judge for the Western District of Arkansas, filed in this case on February 16, 2017, concerning Plaintiff Juan B. Rodriguez’s 28 U.S.C. § 2241 Motion (Doc. 1). In the R&R, the Magistrate Judge recommended that the Court dismiss the Motion without prejudice. Rodriguez filed Objections to the R&R (Doc. 6), and, in response, the Court has now conducted a *de novo* review as to all proposed findings and recommendations. 28 U.S.C. § 636(b)(1).

The following chronology of events is helpful to an understanding of Rodriguez’ Motion:

- January 14, 2010. As the result of a search conducted by his state parole officer, Rodriguez was arrested, taken into custody, and subsequently charged by the State of Arkansas with possession of methamphetamine with the intent to deliver and possession of drug paraphernalia.

- February 1, 2010. Rodriguez signed a waiver of his right to a parole revocation hearing, which had the effect of revoking his parole for a period of approximately six months.¹
- March 31, 2010. Rodriguez was indicted in this Court on charges of conspiring to distribute methamphetamine, possession with the intent to distribute methamphetamine, and use of a residence for the purpose of distributing methamphetamine.²
- April 1, 2010. The Court entered an Order for Writ of Habeas Corpus ad Prosequendum, directing the U.S. Marshal to secure Rodriguez from the Benton County Jail, and to hold him in federal custody pending further proceedings in this Court.
- July 20, 2010. Rodriguez presented a plea agreement to the Court and entered a guilty plea to Count 2 of the indictment.
- November 16, 2010. The Court sentenced Rodriguez to 135 months incarceration in the BOP, five years of supervised release, a \$15,000.00 fine and a \$100.00 special assessment.³
- November 22, 2010. The U.S. Marshal returned Rodriguez to the custody of the State of Arkansas.

¹ The state charges were ultimately dropped.

² United States of America v. Juan B. Rodriguez, Case No. 5:10-CR-50022-001.

³ On November 25, 2015, the Court reduced the sentence to 120 months, pursuant to Amendments 782 and 788 to the United States Sentencing Guidelines.

- May 16, 2011. Rodriguez was released from state custody and was thereafter transferred to federal custody to begin serving his federal sentence.

After exhausting his administrative remedies, Rodriguez brought the instant Motion pursuant to 28 U.S.C. § 2241. In the Motion, Rodriguez requests jail credit towards his federal sentence for the time period of January 14, 2010 to November 22, 2010—approximately 312 days—pursuant to 18 U.S.C. § 3585(b). However, in order for a court to have jurisdiction over a § 2241 petition, it “must be filed in either the district where the prisoner is confined . . . , in the United States District Court for the District of Columbia, or in any district in which the Bureau of Prisons maintains a regional office.” *United States v. Coria-Hernandez*, 2015 WL 12828173, at *1 (W.D. Ark. Aug. 12, 2015), *report and recommendation adopted*, 2015 WL 12844390 (W.D. Ark. Oct. 9, 2015) (citing *United States v. Chappel*, 208 F.3d 1069, 1070 (8th Cir. 2000)); *United States v. Feist*, 346 F. App'x 127, 128 (8th Cir. 2009). Because Rodriguez is not confined in the Western District of Arkansas⁴ and the Bureau of Prisons does not maintain a regional office in the Western District of Arkansas,⁵ this Court lacks jurisdiction to hear his habeas petition. He may, of course, refile his petition in the district where he is confined, or in any of the other districts identified in the R&R as proper.

⁴ Rodriguez is currently being held at Loretto FCI, which is located in the Western District of Pennsylvania.

⁵ The Bureau of Prisons has six regional offices located in Annapolis Junction, Maryland; Kansas City, Kansas; Philadelphia, Pennsylvania; Atlanta, Georgia; Grand Prairie, Texas; and Stockton, California. Those offices are located in the District of Maryland, the District of Kansas, the Eastern District of Pennsylvania, the Northern District of Georgia, the Northern District of Texas, and the Eastern District of California, respectively.

With respect to the R&R's discussion of the merits of Rodriguez's petition, the Court does not specifically disagree with the Magistrate Judge's analysis, but it finds that ruling on the merits is inadvisable given the fact that the Court lacks jurisdiction over the petition. The Court believes that not ruling on the merits is prudent given the fact that Rodriguez may refile the petition at a later date in a court where jurisdiction is proper, which would allow that court to perform a thorough review of the merits.

Accordingly, the Court **ADOPTS IN PART AND DECLINES TO ADOPT IN PART** the R&R (Doc. 5). The Court **ADOPTS** the analysis and conclusion set forth in the R&R regarding § 2241 jurisdiction. The Court **DECLINES TO ADOPT** the section of the R&R that addresses the merits of the Motion. Therefore, Plaintiff Juan B. Rodriguez's 28 U.S.C. § 2241 Motion (Doc. 1) is **DISMISSED WITHOUT PREJUDICE**. A judgment dismissing the case will be filed contemporaneously with this Order.

IT IS SO ORDERED on this 26th day of April, 2017.



TIMOTHY L. BROOKS
UNITED STATES DISTRICT JUDGE